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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,083	10/10/2001	John S. Hendricks	SEDN/5205	5151

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EXAMINER

SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/973,083	Applicant(s) HENDRICKS ET AL.	
	Examiner Justin E. Shepard	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 61-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 12/21/06 have been fully considered but they are not persuasive.

Page 4, last paragraph:

The applicant argues that Vogel fails to teach the claimed "group assignment rules processor engine that allows a viewer to review and modify or override the group assignment rules." As Vogel allows the user to review the group assignment number (column 5, lines 7-9), and allows for the user to override the group assignment (column 5, lines 37-42). The examiner is interpreting the group number itself as being a very simple version of a rule. The simple rule being if you are part of this group, modify the content being viewed, if you're not part of this group, don't modify the content being viewed.

Page 5, lines 4-9:

The applicant continues the above argument in this segment. They argue that the claimed rules associates the viewer with other viewers, while Vogel associates programs with other programs. Although this feature is not claimed, figure 1 of Vogel shows only 2 possible media choices to choose from, the examiner interprets this as being equivalent to users being grouped together. For example, one group of users would be watching source 1, while the other would be watching source 2.

Page 5, paragraph beginning with "Moreover,":

The applicant argues that McKenna and Vogel cannot be combined as Vogel teaches a system wherein the user enters the group, wherein McKenna discloses a system in which the headend assigns the group to the user. The downloading of the group assignment to the user's system is not the crux of the system and it would have been obvious for one of ordinary skill in the art to add the manual group assignment taught by Vogel to the system disclosed by McKenna. The motivation would have been to enable the system disclosed by McKenna to allow for the tracking of content that user's find offensive, therefore allowing for advertisers to avoid placing their advertisements during these programs.

Page 5, paragraph starting "Furthermore":

The applicant argues that Vogel teaches away from McKenna as it does not allow for the user to control the tuning of the system. Upon reviewing Vogel, the examiner cannot find anything that either allows or disallows the users in Vogel from manually tuning to a specific channel. In the field of invention section it states that the video program could be broadcast free-to-air, cable, or satellite. As television receivers that receive signals by these methods normally allow for the user to tune to more than one program, the system is viewed as having this function as there isn't a section in patent that specifically excludes this function.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of Vogel.

Referring to claim 61, McKenna discloses a system, comprising: a switching engine for receiving a plurality of group assignment rules (column 10, lines 64-68; column 11, lines 1-4) and a switching plan (column 11, lines 11-13) and for switching at least one program channel to at least one feeder channel according to the switching plan (column 11, lines 21-26), the feeder channel being an ancillary channel for providing a plurality of advertisements based on a group assignment in the group assignment rules (column 10, lines 50-60); and a data collection engine for collecting information including advertisements watched data (column 7, lines 18-19; Note: as the system watches the channel that the system is tuned to, it would keep track of when the system tuned into a substitute channel) and any changes to the group assignment rules for use in future advertising targeting (column 11, lines 27-32).

McKenna does not disclose a system comprising a group assignment rules processor engine for managing the group assignment rules by allowing a viewer to review the group assignment rules and by processing any input from the viewer to modify or override of any of the group assignment rules.

Vogel discloses a system comprising a group assignment rules processor engine for managing the group assignment rules by allowing a viewer to review the group assignment rules (column 5, lines 8-12 and 20-26) and by processing any input from the viewer to modify or override of any of the group assignment rules (column 5, lines 37-42).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the rules managing and overriding taught by Vogel to the system disclosed by McKenna. The motivation would have been to enable the user to block out certain programming not deemed appropriate for certain viewers.

Claim 64 is rejected on the same grounds as claim 61.

Referring to claim 62, McKenna discloses a system of claim 61, further comprising: a memory for storing the group assignment rules (column 11, lines 11-13) and the advertisements (figure 1, parts 13 and 14).

Claim 65 is rejected on the same grounds as claim 62.

Referring to claim 63, McKenna discloses a system of claim 61, wherein the data collection engine includes an automatic data collection module (column 7, lines 18-19) and a manual data collection module (column 7, lines 28-38).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS


SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER